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July 30, 2020

In connection with the above-named case, the People voluntarily provide the following information regarding:

**MOS NAME: MICHAEL GANZ**

**MOS TAX: 947016**

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

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**Disclosure # 1:**

THE NYPD ENTERED A DISPOSITION OF MINOR PROCEDURAL VIOLATION AGAINST MOS GANZ FOR AN ALLEGATION OF MEMOBOOK INCOMPLETE/IMPROPER DATED 10/15/17.

CASE STATUS: CLOSED ON 02/16/18.

**Disclosure # 2:**

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 1/28/18, AGAINST MOS GANZ:

ALLEGATION 1: INVOICE DISCREPANCY - LAB - MARIJUANA

ALLEGATION 1: REPORT INCOMPLETE/INACCURATE - PROPERTY CLERK INVOICE

ACTION TAKEN: VERBAL INSTRUCTION

CASE STATUS: CLOSED ON 4/23/18

**Disclosure # 3:**

ON SEPTEMBER 25, 26 AND 27 OF 2017, MOS GANZ PROVIDED TESTIMONY IN A COMBINED MAPP/HUNTLEY/DUNAWAY HEARING, FOR NEW YORK COUNTY INDICTMENT 4437-2016, PRESIDED OVER BY JUSTICE MARK DWYER. MOS GANZ HAD PROVIDED TESTIMONY THAT HE DID NOT INITIALLY OBSERVE THE IDENTITY OF THE PASSENGERS IN THE CAR, BUT HAD OBSERVED SMALL PIECES OF LITTER, APPROXIMATELY 1 INCH BY 1 INCH, TOSSED FROM BOTH REAR PASSENGER WINDOWS, AND STOPPED THE CAR BECAUSE OF THE LITTERING. EVIDENCE IN FORM OF A DEFENDANT'S STATEMENT WAS ALSO PRESENTED IN WHICH SAID DEFENDANT STATED A SECOND OFFICER INFORMED THE DEFENDANT THEY WERE BEING STOPPED FOR THROWING THINGS OUT OF THE WINDOW, AND SEPARATELY THAT SAID DEFENDANT WAS EATING JOLLY-RANCHER CANDY IN THE BACKSEAT.

ON NOVEMBER 21, 2017, ON THE RECORD, J. DWYER RE-ORDERED THE SUPPRESSION OF THE FIREARM AT ISSUE, STATING IN RELEVANT PART, "I THINK WHAT I'M FOCUSED ON NOW IS IN PART THIS: [MOS GANZ] WAS ASKED POINTEDLY WHY DID YOU STOP THE CAR, AND HE SAID IT WAS JUST FOR LITTERING. I DIDN'T KNOW WHO WAS IN THE CAR.

IF IT HAD BEEN FOUR GRANDMOTHERS COMING FROM CHURCH, I WOULD HAVE STOPPPED THE CAR FOR LITTERING. IF HE HAD COME IN AND SAID, I HAD THEM, I WANTED TO INVESTIGATE THESE KIDS, AND SUDDENTLY PAPER COMES FLYING OUT OF THE WINDOW AND I HAVE GOT MY QUOTE, PRETEXT, UNQUOTE REASON TO DO IT, IF HE HAD SAID THAT, I MIGHT BELIEVE THAT HE ACTUALLY SAW STUFF COMING OUT OF THE WINDOW. FOR HIM TO SAY I REALLY, REALLY WANTED TO STOP THE CAR AT TWO IN THE MORNING BECAUSE SOMEBODY LITTERED AND THAT IS THE ONLY REASON WHY I STOPPED THAT CAR, I JUST HAVE A LOT OF TROUBLE WITH THAT, AND IN THESE CREDIBILITY THINGS, IT IS NOT LIKE I PRETEND I'M A MIND READER, IT JUST STRIKES ME AS A LITTLE FARFETCHED I THIS CASE."

A COPY OF THE NOVEMBER 21, 2017 MINUTES ARE ATTACHED BELOW.

THE PEOPLE ARE UNAWARE OF ANY PENDING OR SUBSTANTIATED CCRB ALLEGATIONS AGAINST THIS OFFICER.

Eric Gonzalez  
District Attorney  
Kings County

SUPREME COURT  
TRIAL TERM

NEW YORK COUNTY  
PART 41

-----X  
THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT #  
: 4437-16  
:  
:  
AGAINST : CHARGE  
: CPW  
:   
[REDACTED] A [REDACTED] Defendants :  
-----X Proceedings

100 Centre Street  
New York, New York 10013  
November 21, 2017

B E F O R E:

HONORABLE: MARK DWYER,  
JUSTICE OF THE SUPREME COURT

APPEARANCES: (Same as previously noted)

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THE CLERK: Number 37, [REDACTED] A [REDACTED] and [REDACTED]

[REDACTED] E [REDACTED].

MS. MINARCIK: Michelle Minarcik M. I. N. A. R. C.

I. K.

MR. SCHLOSSER: Eric Schlosser for defendant

E [REDACTED].

MS. UNGER: Beth Unger for defendant A [REDACTED].

MS. WRIGHT: Emma Wright, Legal Aid.

1           THE COURT:   Last time we were here I ruled that I  
2           would grant the defendants's suppression motion as to the  
3           gun.

4           Ms. Minarcik, I understand you wanted to have a  
5           few words with me about that?

6           MS. MINARCIK:   Yes, your Honor.   I want to be  
7           heard on a few things as to the officer's credibility which  
8           is my understanding the basis for your granting the  
9           defendants's motion.

10          Just a few things that I guess I would like you to  
11          consider before you make that ruling.

12          First off, I just want to touch on this notion  
13          that if Officer Ganz was lying about the basis for the  
14          stop, the idea he would pick littering as the reason.

15          First, I think we could all agree as a nine year  
16          veteran of the NYPD, Officer Ganz probably has a laundry  
17          list of reasons to stop a vehicle, right.

18          For instance, and probably the most obvious one  
19          that would fit this case would be saying they failed to use  
20          a turn signal, right.

21          However, he didn't.   He said they littered; and  
22          defense counsel pointed out to you and you previously  
23          mentioned this as well, he has not written a littering  
24          summons in the past year.

25          THE COURT:   Or ever, I believe.

1 MS. MINARCIK: I actually believe the testimony  
2 was the last year.

3 THE COURT: I think I asked him a follow-up, I  
4 could be wrong.

5 MS. MINARCIK: Regardless, my argument stands if  
6 it is in the last year or ever for that matter, because I  
7 think it actually cuts in both directions.

8 I also think it goes to show how obscure that  
9 would be. If he's not writing littering summonses all the  
10 time, how is that the thing that pops into his head, right,  
11 the lie that pops into his head.

12 And I think if you were to find that Officer Ganz  
13 was lying about the littering, you would also have to find  
14 that he actually decided on that lie when he was inside of  
15 the vehicle before he even knew there was a gun in the  
16 car.

17 And I say that because during [REDACTED] A [REDACTED]'s  
18 statement to the detectives, he actually says the other  
19 detective that approached his side of the vehicle, through  
20 the window before they searched the car, said that they  
21 stopped them because they were throwing things out of the  
22 window.

23 So, what that means is that Officer Ganz, while  
24 they were in the car before he knew there was a gun or  
25 anything bad in that vehicle, had to kind of sit there and

1 I guess maliciously think okay, if there is something bad  
2 in the vehicle, I have to come up with a lie right now and  
3 the lie is littering, right.

4 I also want to follow up on something else in  
5 [REDACTED] Al [REDACTED]'s statement. He was eating Jolly Ranchers in  
6 the backseat, which is candy, which in a sense corroborates  
7 what Officer Ganz was saying, he saw what appeared to be  
8 candy wrappers or the like coming out of the backseat.

9 And so I think if you were to find that Officer  
10 Ganz was lying about the littering, you really have to find  
11 he was sitting in that car beforehand, before he knew there  
12 was a gun, before he knew they were eating candy in the  
13 backseat, somehow that is what he came up with.

14 So I just ask that you consider that. Consider  
15 [REDACTED] Al [REDACTED]'s statements and how they to a certain extent  
16 corroborate Officer Ganz's testimony. I ask you consider  
17 those things before you make your ruling.

18 THE COURT: Those are certainly fair points. One  
19 of the things you say kind of highlights how difficult it  
20 is when a police officer comes in and says I stopped the  
21 car at two in the morning, whatever it was, because of X.

22 You are right, he could make anything up. He  
23 could make up there is no turn signal or perhaps there was  
24 no turn signal.

25 I think what I'm focused on now is in part this:

1 He was asked pointedly why did you stop the car, and he  
2 said it was just for littering. I didn't know who was in  
3 the car. If it had been four grandmothers coming from  
4 church, I would have stopped the car for littering.

5 If he had come in and said I had them, I wanted to  
6 investigate these kids, and suddenly paper comes flying out  
7 of the window and I have got my quote, pretext, unquote  
8 reason to do it, if he had said that, I might believe that  
9 he actually saw the stuff coming out the window.

10 For him to say I really, really wanted to stop the  
11 car at two in the morning because somebody littered and  
12 that is the only reason why I stopped that car, I just have  
13 a lot of trouble with that, and in these credibility  
14 things, it is not like I pretend I'm a mind reader, it just  
15 strikes me as a little farfetched in this case. Got you.

16 MS. MINARCIK: Yeah, I said my piece.

17 THE COURT: Okay, then I will again order that  
18 the weapon be suppressed.

19 I don't know if you decided yet whether there will  
20 be an appeal or whether you can somehow go forward without  
21 that evidence.

22 MS. MINARCIK: Judge, I'm asking for three weeks  
23 just to look into that or alternatively be able to draft  
24 and file a DOR.

25 THE COURT: What was the date in which we were

1 here last?

2 MS. MINARCIK: I believe it was -- the last date  
3 we were in court?

4 THE CLERK: October 26th.

5 MS. MINARCIK: Yes.

6 THE CLERK: Is this going back to tap A?

7 THE COURT: This will end up being dismissed. So  
8 I don't know how I phrased it last time we were here. If  
9 you are going to even think about filing a notice of  
10 appeal, I would think you would want to do it before this  
11 weekend just in case what I said last time counts as the  
12 suppression order.

13 If you have the transcript and it does not look  
14 like that, then obviously do as you will. If you even want  
15 to think about it, it strikes me you are better off filing  
16 a notice of appeal, put today's date and the last date and  
17 you can always withdraw the notice if that is what you  
18 think you want to do.

19 I don't mind putting it over for a few weeks while  
20 you make the final decision on that. Today is the 22nd.

21 MS. MINARCIK: The 21st.

22 THE COURT: How about December 15th?

23 MR. SCHLOSSER: The 15th?

24 THE COURT: Yes.

25 MS. MINARCIK: Fine with the People.



1 MR. SCHLOSSER: Fine.

2 THE COURT: See you guys then.

3

4

5 I, Randy Berkowitz, a senior court reporter in and  
6 for the State of New York, do hereby certify that the  
7 foregoing transcript is true and accurate to the best of my  
8 knowledge, skill and ability.

9

10 Randy Berkowitz,  
11 Senior Court Reporter

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